

Planning Services

Gateway Determination Report

LGA	Dubbo Regional LGA
RPA	Dubbo Regional Council
NAME	Operational Review of Dubbo LEP 2011
NUMBER	PP_2017_DREGI_003_00
LEP TO BE AMENDED	Dubbo Local Environmental Plan 2011
ADDRESS	All Dubbo LGA
DESCRIPTION	All Dubbo LGA
RECEIVED	1 August 2017; DEEMED ADEQUATE: 15 September 2017
FILE NO.	17/10593
QA NUMBER	qA416213
POLITICAL DONATION DISCLOSURE	There are no known donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT DISCLOSURE	There are no known meetings or communications with registered lobbyists with respect to this proposal.
	It is noted that a submission from Mr Steven Guy representing MAAS Group Properties has been included in the Planning Proposal package.
LAND RELEASE DATA	N/A

INTRODUCTION

Description of Planning Proposal and Site Description

The planning proposal seeks to make housekeeping amendments to the Dubbo LEP 2011, comprising twelve (12) items that propose the following:

- **Item 1:** Amend the Landuse Table for zone R5 Large Lot Residential to prohibit “farm stay accommodation.” This will affect land zoned R5 Large Lot Residential under the Dubbo LEP 2011.
- **Item 2:** Amend the W2 Recreational Waterways zone to make “water storage facilities” permissible with consent. This will affect land zoned W2 Recreational Waterways under the Dubbo LEP 2011.
- **Item 3:** Amend the RE2 Private Recreation zone to remove “aquaculture” as a form of development that is permissible with consent. This will affect land zoned RE2 Private Recreation under the Dubbo LEP 2011.

- **Item 4:** Amend *Clause 4.1AA (2) Minimum Subdivision Lot Size for Community Title Schemes* so that its provisions are extended to zones R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, and RU5 Village. This will affect land zoned R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, and RU5 Village under the Dubbo LEP 2011.
- **Item 5:** Amend *Clause 4.1A Minimum Subdivision Lot Size for Zone RU5 and Zone R2* so that its provisions are extended to land zoned R1 General Residential. This will affect land zoned R1 General Residential under the Dubbo LEP 2011.
- **Item 6:** Amend *Clause 5.4(1) Controls relating to miscellaneous permissible uses* to increase the maximum number of bedrooms for “bed and breakfast accommodation” from 4 to 5 bedrooms. This will affect land where “bed and breakfast accommodation” is permissible with consent under the Dubbo LEP 2011.
- **Item 7:** Proposal to create a new clause under *Part 7 Additional local provisions* to introduce “rural and nature-based tourist facilities”. This will affect all land where “rural and nature-based tourist facilities” are proposed to be permissible with consent, including land zoned RU1 Primary Production, RU2 Rural Landscape and R5 Large Lot Residential under the Dubbo LEP 2011.
- **Item 8:** Update property details of two (2) local heritage items under Schedule 5 Environmental heritage. The subject site is Terramungamine Homestead and Woolshed, 63L Burraway Road, Dubbo, Lot 8 DP 1205114.
- **Item 9:** Update property details of one (1) local heritage item under Schedule 5 Environmental heritage. The subject site is: ‘Communications bunker’, 24 Keswick Parkway, Dubbo, Lot 303 DP1216045.
- **Item 10:** Make LEP mapping corrections to minor zone boundary anomalies at Transport Drive, Brocklehurst. The subject site includes: 19, 20, 22 and 24 Transport Drive, Brocklehurst (Lots 2,3,4 and 5 DP 285340) and 14L Burraway Road, Brocklehurst, Lot 1 DP 1001551.
- **Item 11:** Make minor LEP mapping corrections to zone boundary anomalies at Lady Baron Circuit, Dubbo. The subject site includes: 8, 10 and 12 Lady Baron Circuit, Dubbo (Outlook Estate), Lot 2018, 2030 and 2031 DP 1197970.
- **Item 12:** Proposal to amend Dubbo LEP 2011 biodiversity mapping to reflect recent residential development at Page Avenue and Durum Circuit in Keswick Estate. The subject properties include the following residential properties in and around Durum Circuit and Page Avenue, Keswick Estate:

Address	Legal description (Lot and DP)
14 Volta Ave Dubbo	Lot 7 DP 1196695
16 Volta Ave Dubbo	Lot 8 DP 1196695
1 Drover Ave Dubbo	Lot 252 DP 1231735
3 Drover Ave Dubbo	Lot 24 DP 1196695
5 Drover Ave Dubbo	Lot 23 DP 1196695
7 Drover Ave Dubbo	Lot 22 DP 1196695
9 Drover Ave Dubbo	Lot 43 DP 1207523
11 Drover Ave Dubbo	Lot 44 DP 1207523

13 Drover Ave Dubbo	Lot 45 DP 1207523
2 Mortlock Ave Dubbo	Lot 2 DP 1231097
62 Page Ave Dubbo	Lot 1 DP 1231097
60 Page Ave Dubbo	Lot 47 DP 1207523
58 Page Ave Dubbo	Lot 46 DP 1207523
56 Page Ave Dubbo	Lot 33 DP 1196695
54 Page Ave Dubbo	Lot 32 DP 1196695
52 Page Ave Dubbo	Lot 31 DP 1196695
50 Page Ave Dubbo	Lot 30 DP 1196695
48 Page Ave Dubbo	Lot 29 DP 1196695
46 Page Ave Dubbo	Lot 282 DP 1213342
21 Volta Ave Dubbo	Lot 281 DP 1213342
23 Volta Ave Dubbo	Lot 27 DP 1196695
25 Volta Ave Dubbo	Lot 26 DP 1196695
19 Volta Ave Dubbo	Lot 116 DP 1223370
17 Volta Ave Dubbo	Lot 115 DP 1223370
15 Volta Ave Dubbo	Lot 114 DP 1223370
41 Page Ave Dubbo	Lot 117 DP 1223370
43 Page Ave Dubbo	Lot 118 DP 1223370
45 Page Ave Dubbo	Lot 119 DP 1223370
6 Drover Ave Dubbo	Lot 40 DP 1207523
8 Drover Ave Dubbo	Lot 41 DP 1207523
10 Drover Ave Dubbo	Lot 42 DP 1207523
9 Mortlock Ave Dubbo	Lot 53 DP 1207523
7 Mortlock Ave Dubbo	Lot 52 DP 1207523
5 Mortlock Ave Dubbo	Lot 51 DP 1207523
3 Mortlock Ave Dubbo	Lot 50 DP 1207523
64 Page Ave Dubbo	Lot 49 DP 1207523
8 Hindmarsh Esp Dubbo	Lot 69 DP 1207523
6 Hindmarsh Esp Dubbo	Lot 70 DP 1207523
71 Page Ave Dubbo	Lot 73 DP 1207523
73 Page Ave Dubbo	Lot 72 DP 1207523
75 Page Ave Dubbo	Lot 71 DP 1207523
61 Keswick Pkwy Dubbo	Lot 134 DP 1230745
63 Keswick Pkwy Dubbo	Lot 135 DP 1230745
65 Keswick Pkwy Dubbo	Lot 136 DP 1230745
16 Timgarlen Ave Dubbo	Lot 121 DP 1172510
18 Timgarlen Ave Dubbo	Lot 120 DP 1172510
11 Timgarlen Ave Dubbo	Lot 140 DP 1172510
13 Timgarlen Ave Dubbo	Lot 141 DP 1172510
15 Timgarlen Ave Dubbo	Lot 142 DP 1172510
17 Timgarlen Ave Dubbo	Lot 143 DP 1172510
19 Timgarlen Ave Dubbo	Lot 144 DP 1172510
21 Timgarlen Ave Dubbo	Lot 145 DP 1172510
23 Timgarlen Ave Dubbo	Lot 1460 DP 1195646
27 Durum Crct Dubbo	Lot 1461 DP 1195646
29 Durum Crct Dubbo	Lot 147 DP 1172510
31A Durum Crct Dubbo	Lot 1481 DP 1185896
31B Durum Crct Dubbo	Lot 1482 DP 1185896
33 Durum Crct Dubbo	Lot 149 DP 1172510

35 Durum Crct Dubbo	Lot 150 DP 1172510
37 Durum Crct Dubbo	Lot 151 DP 1172510
39 Durum Crct Dubbo	Lot 152 DP 1172510
41 Durum Crct Dubbo	Lot 153 DP 1172510
43 Durum Crct Dubbo	Lot 154 DP 1172510
45 Durum Crct Dubbo	Lot 155 DP 1172510
24 Keswick Pkwy Dubbo	Lot 303 DP 1216045

Surrounding Area

The Planning Proposal is applicable to all land under the Dubbo LEP 2011.

Summary of Recommendation

Proceed with Conditions – The Planning Proposal seeks to make housekeeping amendments to the Dubbo LEP 2011 which are adequately justified.

PROPOSAL

Objectives or Intended Outcomes

The objective of the Planning Proposal is to facilitate 12 itemised amendments to the existing Dubbo LEP 2012. Some of these items will harmonise the provisions of the Dubbo LEP 2011 and Wellington LEP 2012 (pending housekeeping Planning Proposal).

Explanation of Provisions

Item 1: Proposal to amend the Landuse Table for zone R5 Large Lot Residential to prohibit “farm stay accommodation.”

Currently, the landuse “farm stay accommodation” is permissible with consent (as an innominate use) on land zoned R5 Large Lot Residential. The landuse aims to facilitate development of temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

Council has been receiving development applications that are unable to adequately justify the extent of farming activities undertaken on the property. It is proposed that the landuse “farm stay accommodation” be prohibited under the zone, and a new landuse be introduced, known as “Rural and Nature Based Tourist Facilities”, with provisions to facilitate appropriate development. The intent and provisions of this new landuse is outlined in detail under *Item 7* below.

Item 2: Amend the W2 Recreational Waterways zone to make “water storage facilities” permissible with consent.

The Dubbo LEP 2011 currently prohibits “water storage facilities” in the zone W2 Recreational Waterways. “Water storage facility” is defined under the Standard Instrument LEP as a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment. Given the existing weirs on the Macquarie River which is zoned W2 Recreational Waterways, it is reasonable to include “water storage facilities” as a permissible use under this zone.

Item 3: Amend the RE2 Private Recreation zone to remove “aquaculture” as a form of development that is permissible with consent.

The Dubbo LEP 2011 currently permits aquaculture as a landuse on all land zoned RE2 Private Recreation. Under the Standard Instrument LEP Order 2006, “aquaculture” is defined as a component of the “agriculture” group term. This means that under the provisions of many State Environmental Planning Policies (SEPPs), the permissibility of “aquaculture” may lead to the inferred permissibility of other landuses captured under the broader “agriculture” group term. This may lead to landuse activities that are otherwise unintended and incompatible on land zoned RE2 Private Recreation.

Given that other LEPs prohibit “aquaculture” under the RE2 Private Recreation zone, the proposal to prohibit it in this zone under the Dubbo LEP 2011 is supported. Council is reminded of existing development consents and existing use rights, which will continue the operation of landuse activities that are permissible with consent due to the group-term (agriculture) and sub-term (aquaculture) arrangement.

Item 4: Amend Clause 4.1AA (2) *Minimum Subdivision Lot Size for Community Title Schemes* so that its provisions are extended to zones R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, and RU5 Village.

Under the Dubbo LEP 2011, clause 4.1AA regulates the minimum subdivision lot size requirements to enable community title subdivisions. The objective of this clause is to ensure that land is not fragmented by subdivision prior to the development of land.

Currently, this clause applies to a subdivision (being a subdivision that requires development consent) under the Community Land Development Act 1989 of land in zones: RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, and E3 Environmental Management.

The proposal seeks to extend the provisions of this clause to apply to land in zones: R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, and RU5 Village. It is also proposed to amend clause 4.1AA to require dual occupancy or multi-dwelling housing development to be constructed on the land, prior to undertaking a Community Title Subdivision.

The application of this clause in residential and village zones will ensure residential development in these zones are not subject to a Community Title Subdivision prior to consideration of the development and granting of development consent. The proposed amendment is supported, as the intent of the proposed provisions will ensure orderly development of urban land, while continuing to prevent fragmentation of land prior to development.

Item 5: Amend Clause 4.1A *Minimum Subdivision Lot Size for Zone RU5 and Zone R2* so that its provisions are extended to land zoned R1 General Residential.

Under the Dubbo LEP 2011, Clause 4.1A *Minimum Subdivision Lot Size for Zone RU5 and Zone R2*, allows subdivision of a lots below the minimum lot size (MLS) on the Lot Size Map for dual occupancy development on land zoned RU5 Village and R2 Low Density Residential.

The clause provides flexibility with the application of MLS and facilitates dual occupancy development, increasing housing diversity and choice in the residential market.

The Planning Proposal seeks to extend the provisions of this clause to land zoned R1 General Residential. The proposal also seeks to include “multi-dwelling housing” as an applicable development type under this clause. The amended clause will also require that the subject development (dual occupancy or multi-dwelling housing) be constructed prior to undertaking a Torrens-Title subdivision.

The Planning Proposal includes a draft clause to reflect the proposed amendments to clause 4.1A. The specific wording of the amended clause will be subject to review by the Department’s legal services branch and Parliamentary Counsel’s Opinion.

Item 6: Amend Clause 5.4(1) Controls relating to miscellaneous permissible uses to increase the maximum number of bedrooms for “bed and breakfast accommodation” from 4 to 5 bedrooms.

The current provisions under clause 5.4(1) of the Dubbo LEP 2011 permit “bed and breakfast accommodation” to contain four (4) bedrooms. The Planning Proposal seeks to amend the clause to increase the maximum number of bedrooms for a bed and breakfast accommodation to 5 (five) bedrooms. This is a local matter for Council.

This will affect all land where “bed and breakfast accommodation” is permissible with consent under the Dubbo LEP 2011.

The proposed amendment is minor and unlikely to have an impact on the nature of “bed and breakfast accommodation”. Any impacts can be mitigated through conditions of development consent and Council’s compliance actions.

Item 7: Proposal to create a new clause under Part 7 Additional local provisions to introduce “rural and nature-based tourist facilities”.

The Planning Proposal seeks to introduce a new local provision to facilitate tourist and visitor accommodation in rural areas that are of appropriate scale. The proposed new clause under Part 7 of the Dubbo LEP 2011 will be known as “rural and nature-based tourist facilities” and include provisions to ensure any future development is consistent with its objectives.

This new clause will affect all land where “rural and nature-based tourist facilities” are proposed to be permissible with consent, including land zoned RU1 Primary Production, RU2 Rural Landscape and R5 Large Lot Residential under the Dubbo LEP 2011.

The Planning Proposal includes a draft clause, identified as “*Clause 7.14 Rural and nature-based tourist facilities*”. The specific wording of the amended clause will be subject to review by the Department’s legal services branch and Parliamentary Counsel’s Opinion. The proposal is supported, as such clauses exist in other LEPs (Byron LEP 2012 cl. 6.8, Ballina LEP 2012 cl 7.9 and Bellingen LEP 2010 Cl 7.8), and the new clause aims to facilitate tourism development in rural areas without adverse impacts on agricultural production, and scenic and environmental values. The intent of the proposed clause is supported noting the final wording of the clause will be subject to Parliamentary Counsel.

Item 8: Update property details of two (2) local heritage items under Schedule 5 Environmental heritage.

The Planning Proposal seeks to update the property details of two (2) existing local heritage items under Schedule 5 Environmental heritage of the Dubbo LEP 2011. The subject site is Terramungamine Homestead and Woolshed, 63L Burraway Road, Dubbo, Lot 8 DP 1205114.

The subject site has recently been subdivided and the new lot and DP details need to be updated. This is a routine housekeeping amendment. It is proposed that Schedule 5 of the Dubbo LEP 2011 be updated as follows:

Suburb	Item Name	Address	Property Description	Significance	Item No
Dubbo	Terramungamine Homestead	63L Burraway Road, Dubbo	Lot 8 DP 1205114	Local	I65
Dubbo	Terramungamine Woolshed	63L Burraway Road, Dubbo	Lot 8 DP 1205114	Local	I66

The LEP Heritage map (Sheet HER_007) is also proposed to be amended to identify the lots on which the local heritage items are located, since the subdivision.

The proposed amendment to Items I65 and I66 under Schedule 5 of the Dubbo LEP 2011 is supported.

Item 9: Update property details of one (1) local heritage item under Schedule 5 Environmental heritage.

The Planning Proposal seeks to update the property details (address, lot and DP number) of an existing local heritage item known as 'Communications bunker' (Item I135) 24 Keswick Parkway, Dubbo, Lot 303 DP1216045. The site has undergone residential development and thus the property details of the land containing the heritage item has changed.

It is proposed that Schedule 5 of the LEP be updated as follows:

Suburb	Item Name	Address	Property Description	Significance	Item No
Dubbo	Communications Bunker	24 Keswick Parkway, Dubbo	Lot 303 DP 1216045	Local	I135

The LEP Heritage map (Sheet HER_008B) is also proposed to be amended to identify the entire lot on which the local heritage item is located.

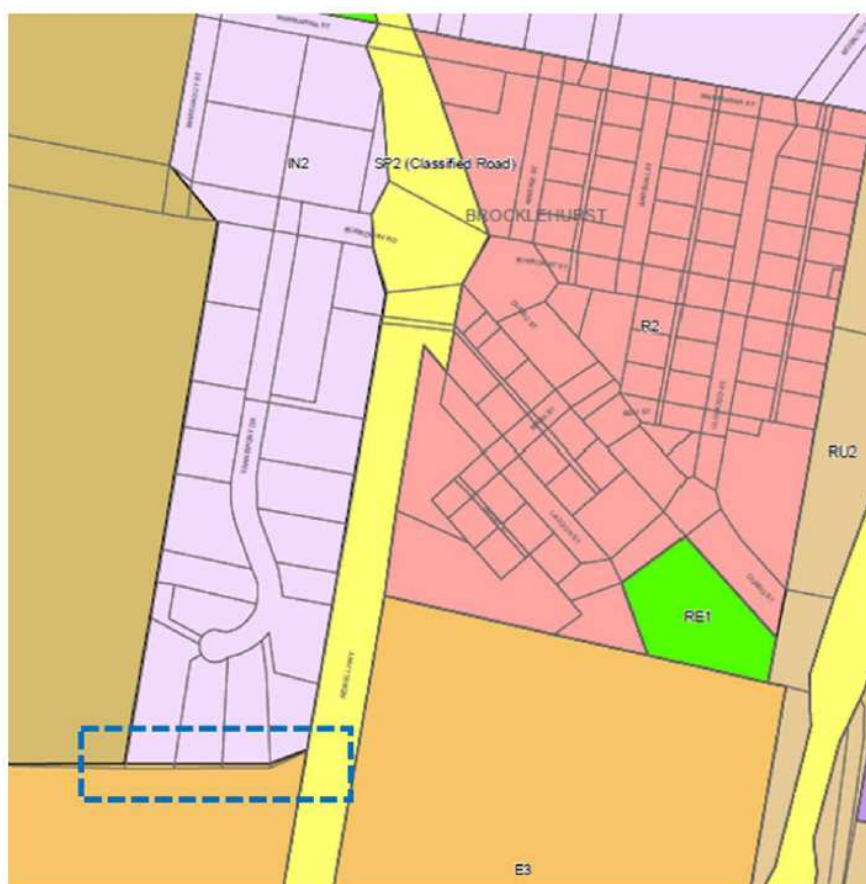
The proposed amendment to Item I135 under Schedule 5 of the Dubbo LEP 2011 is supported.

Item 10: Make LEP mapping corrections to minor zone boundary anomalies at Transport Drive, Brocklehurst.

The Planning Proposal seeks to make minor corrections to the LEP Land Zoning Map (Sheet LZN_007B). The zone boundary between E3 Environmental Management and IN2 Light Industrial does not align with the cadastral boundaries. This is a minor mapping anomaly and the intention to align the zone boundary based on the cadastre is supported.

The subject site includes: 19, 20, 22 and 24 Transport Drive, Brocklehurst (Lots 2,3,4 and 5 DP 285340) and 14L Burraway Road, Brocklehurst, Lot 1 DP 1001551.

The subject mapping anomaly is outlined below:

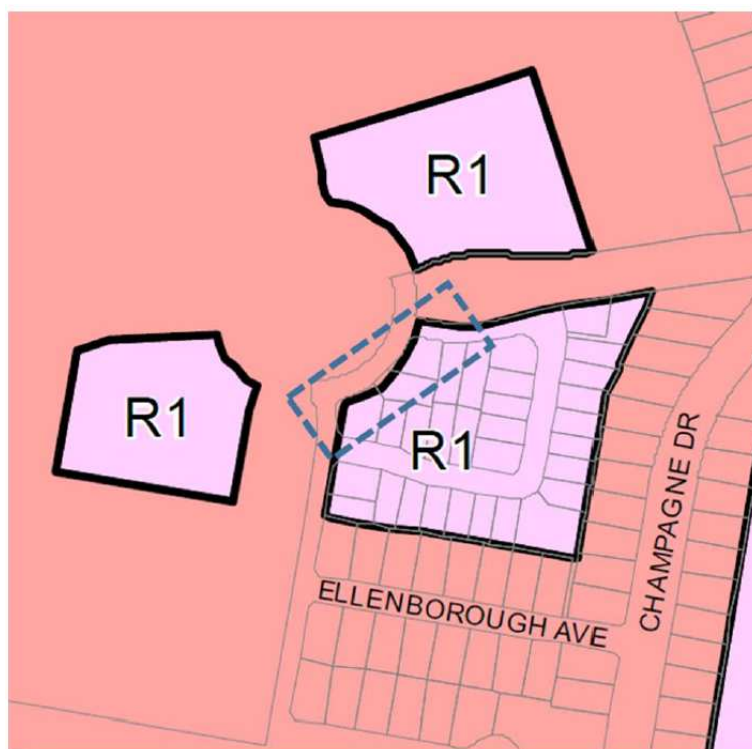


Item 11: Make minor LEP mapping corrections to zone boundary anomalies at Lady Baron Circuit, Dubbo.

The Planning Proposal seeks to make minor corrections to the LEP Land Zoning Map (Sheet LZN_008A). The zone boundary between R1 General Residential and R2 Low Density Residential does not align with the cadastral boundaries. This is a minor mapping anomaly and the intention to align the zone boundary based on the cadastre is supported.

The subject site includes: 8, 10 and 12 Lady Baron Circuit, Dubbo (Outlook Estate), Lot 2018, 2030 and 2031 DP 1197970.

The subject mapping anomaly is outlined below:



Item 12: Proposal to amend Dubbo LEP 2011 Biodiversity mapping to reflect residential development in Keswick Estate.

The Planning Proposal seeks to amend the LEP Natural Resource Biodiversity Map (Sheet NRB_008) to reflect recent clearing of vegetation as part of residential development in Keswick Estate, Dubbo. The proposed amendment to remove application of biodiversity mapping to a particular extent of land will more accurately reflect the location of land of high and moderate biodiversity value.

The proposed amendment to the biodiversity mapping is supported, as it reflects the recent clearing of vegetation as part of developing a residential urban release area.

The subject site includes the following residential properties in Keswick Estate, identified in blue in the map below:



Address	Legal description (Lot and DP)
14 Volta Ave Dubbo	Lot 7 DP 1196695
16 Volta Ave Dubbo	Lot 8 DP 1196695
1 Drover Ave Dubbo	Lot 252 DP 1231735
3 Drover Ave Dubbo	Lot 24 DP 1196695
5 Drover Ave Dubbo	Lot 23 DP 1196695
7 Drover Ave Dubbo	Lot 22 DP 1196695
9 Drover Ave Dubbo	Lot 43 DP 1207523
11 Drover Ave Dubbo	Lot 44 DP 1207523
13 Drover Ave Dubbo	Lot 45 DP 1207523
2 Mortlock Ave Dubbo	Lot 2 DP 1231097
62 Page Ave Dubbo	Lot 1 DP 1231097
60 Page Ave Dubbo	Lot 47 DP 1207523
58 Page Ave Dubbo	Lot 46 DP 1207523
56 Page Ave Dubbo	Lot 33 DP 1196695
54 Page Ave Dubbo	Lot 32 DP 1196695
52 Page Ave Dubbo	Lot 31 DP 1196695
50 Page Ave Dubbo	Lot 30 DP 1196695
48 Page Ave Dubbo	Lot 29 DP 1196695
46 Page Ave Dubbo	Lot 282 DP 1213342
21 Volta Ave Dubbo	Lot 281 DP 1213342
23 Volta Ave Dubbo	Lot 27 DP 1196695
25 Volta Ave Dubbo	Lot 26 DP 1196695
19 Volta Ave Dubbo	Lot 116 DP 1223370
17 Volta Ave Dubbo	Lot 115 DP 1223370

15 Volta Ave Dubbo	Lot 114 DP 1223370
41 Page Ave Dubbo	Lot 117 DP 1223370
43 Page Ave Dubbo	Lot 118 DP 1223370
45 Page Ave Dubbo	Lot 119 DP 1223370
6 Drover Ave Dubbo	Lot 40 DP 1207523
8 Drover Ave Dubbo	Lot 41 DP 1207523
10 Drover Ave Dubbo	Lot 42 DP 1207523
9 Mortlock Ave Dubbo	Lot 53 DP 1207523
7 Mortlock Ave Dubbo	Lot 52 DP 1207523
5 Mortlock Ave Dubbo	Lot 51 DP 1207523
3 Mortlock Ave Dubbo	Lot 50 DP 1207523
64 Page Ave Dubbo	Lot 49 DP 1207523
8 Hindmarsh Esp Dubbo	Lot 69 DP 1207523
6 Hindmarsh Esp Dubbo	Lot 70 DP 1207523
71 Page Ave Dubbo	Lot 73 DP 1207523
73 Page Ave Dubbo	Lot 72 DP 1207523
75 Page Ave Dubbo	Lot 71 DP 1207523
61 Keswick Pkwy Dubbo	Lot 134 DP 1230745
63 Keswick Pkwy Dubbo	Lot 135 DP 1230745
65 Keswick Pkwy Dubbo	Lot 136 DP 1230745
16 Timgarlen Ave Dubbo	Lot 121 DP 1172510
18 Timgarlen Ave Dubbo	Lot 120 DP 1172510
11 Timgarlen Ave Dubbo	Lot 140 DP 1172510
13 Timgarlen Ave Dubbo	Lot 141 DP 1172510
15 Timgarlen Ave Dubbo	Lot 142 DP 1172510
17 Timgarlen Ave Dubbo	Lot 143 DP 1172510
19 Timgarlen Ave Dubbo	Lot 144 DP 1172510
21 Timgarlen Ave Dubbo	Lot 145 DP 1172510
23 Timgarlen Ave Dubbo	Lot 1460 DP 1195646
27 Durum Crct Dubbo	Lot 1461 DP 1195646
29 Durum Crct Dubbo	Lot 147 DP 1172510
31A Durum Crct Dubbo	Lot 1481 DP 1185896
31B Durum Crct Dubbo	Lot 1482 DP 1185896
33 Durum Crct Dubbo	Lot 149 DP 1172510
35 Durum Crct Dubbo	Lot 150 DP 1172510
37 Durum Crct Dubbo	Lot 151 DP 1172510
39 Durum Crct Dubbo	Lot 152 DP 1172510
41 Durum Crct Dubbo	Lot 153 DP 1172510
43 Durum Crct Dubbo	Lot 154 DP 1172510
45 Durum Crct Dubbo	Lot 155 DP 1172510
24 Keswick Pkwy Dubbo	Lot 303 DP 1216045

Mapping

The Planning Proposal includes proposed LEP mapping that are adequate for public consultation purposes. The proposal seeks to amend the following LEP maps to achieve the intended outcomes:

- Heritage Map – Sheet HER_007
- Heritage Map – Sheet HER_008B
- Land Zoning Map – Sheet LZN_007B
- Land Zoning Map – Sheet LZN_008A
- Natural Resource - Biodiversity Map Sheet NRB_008

Council Report

Council resolved to support the Planning Proposal on 8 May 2017, following initial consideration of the Council Report at Council's Planning and Development Committee on 18 April 2017.

NEED FOR THE PLANNING PROPOSAL

The Planning Proposal is required as this is the mechanism to make routine housekeeping amendments to the Dubbo LEP 2011.

STRATEGIC ASSESSMENT

State

Not applicable.

Regional / District

The Planning Proposal is consistent with the goals, directions and actions of the Central West and Orana Regional Plan 2036. Council has adequately addressed the relevant directions and actions from the Regional Plan, namely Directions 4 (Actions 4.4, 4.5 and 4.6), 25 and 29.

Local

The Planning Proposal is consistent with the endorsed Dubbo Urban Areas Development Strategy and Dubbo Rural Areas Development Strategy.

Section 117(2) Ministerial Directions

- Direction 1.2 Rural Zones: The proposal affects land within existing rural zones, however does not propose rezone rural land. The proposal is **consistent** with this Direction, as the proposed amendments will guide future development that is appropriate and compatible with rural zones.
- Direction 1.5 Rural Lands: The proposal affects land within existing rural and environmental zones, and the proposed amendments are **consistent** with this Direction. The proposal amendments will guide development that is appropriate and compatible with rural and environmental zones.
- Direction 2.1 Environmental Protection Zones: The proposal is inconsistent with this Direction as it seeks to remove LEP biodiversity mapping over residential properties in Keswick Estate. The Director Regions, Western can be satisfied that the

inconsistency is of minor significance as the area has already been cleared of vegetation to facilitate development of the Keswick Estate urban release area. The clearing of the land had been assessed through the development application process, supported by a flora and fauna assessment.

The proposal also seeks to rectify a minor LEP mapping anomaly, involving land zoned E3 Environmental Management. This will effectively rezone a slither of land zoned E3 Environmental Management to IN1 Light Industrial, to align the zone boundary with the cadastral boundaries. The Director Regions, Western can be satisfied that the **inconsistency** with this Direction is of **minor significance**, as the proposal seeks to rectify a known mapping anomaly.

- Direction 2.3 Heritage Conservation: The proposal is **consistent** with this Direction as it seeks to update property details (address, lot and DP) of existing local heritage items under Schedule 5 of the Dubbo LEP 2011.
- Direction 3.1 Residential Zones: The proposal is **consistent** with this Direction as the proposed amendments will facilitate a broader choice of housing typologies such as dual occupancy and multi-dwelling housing and increase residential densities on existing residential zoned land.
- Direction 4.3 Flood Prone Land: The proposal is inconsistent with this Direction as it intends to create a provision that affects flood prone land. The proposal seeks to make “water storage facilitates” permissible with consent in the zone W2 Recreational Waterways. The Director Regions, Western can be satisfied that the **inconsistency of minor significance**, as water storage facilities are appropriate form of development in a waterway and already exist within areas zoned W2 Recreational Waterways, in the form of weirs.
- Direction 4.4 Planning for Bushfire Protection: The proposal may create an inconsistency with this Direction as it may affect land mapped as bushfire prone land. The proposed introduction of “rural and nature-based tourist facilitates” may affect bushfire prone land. Consultation with the NSW RFS is required prior to the LEP being made to address this inconsistency. Potential impacts from bushfires will also be assessed through the development approval process for the individual development proposals. The proposal does not change the requirement to seek NSW RFS approval should the future development be located on land affected by bushfire.

The Planning Proposal also addresses consistency with Directions 6.1 Approval and Referral Requirements, 6.3 Site Specific Provisions and demonstrates consistency with Direction 5.10 Implementation of Regional Plans by considering the relevant directions and actions.

State Environmental Planning Policies

The two (2) State Environmental Planning Policies that apply to the subject Planning Proposal are SEPP (Rural Lands) 2008 and SEPP (Infrastructure) 2007.

- SEPP (Rural Lands) 2008: The Planning Proposal is consistent with the rural planning principles contained within this SEPP, as the proposed “rural and nature-based tourist facilitates” will facilitate an appropriate scale of development on rural

land. The Planning Proposal is consistent with SEPP (Rural Lands) 2008 as it demonstrates consistency with the rural planning principles.

- SEPP (Infrastructure) 2007: The Planning Proposal is consistent with this SEPP as the proposed provisions for “water storage facilities” under the W2 Recreational Waterways zone is consistent with the aims and development provisions under the SEPP.

SITE SPECIFIC ASSESSMENT

Social

The Planning Proposal is a routine housekeeping amendment with minor local implications. There are unlikely to be any adverse social impacts and any impacts can be mitigated through the development approvals process. The proposal provides flexibility and greater opportunities for housing mix and densities, which are likely to foster greater social mix within residential areas.

Environmental

The Planning Proposal is a routine housekeeping amendment with minor local implications. There are unlikely to be any adverse social impacts and any impacts can be mitigated through the development approvals process.

Economic

The Planning Proposal is a routine housekeeping amendment with minor local implications. There are likely to be positive economic outcomes, resulting from greater flexibility in applying MLS provisions, opportunities for housing mix, development provisions for tourism related development in rural zones and resolving known anomalies in LEP mapping.

Infrastructure

Not applicable.

CONSULTATION

Community

The Planning Proposal states that the proposal will be placed on public exhibition for 28 days and undertake consultation with the community and any agencies required by the Gateway and this is deemed adequate.

Agencies

The proposed housekeeping amendments are of minor significance, including the items relating to local heritage, biodiversity mapping and proposed new landuse provisions. It is recommended that agency consultations are not require in this instance.

TIMEFRAME

The timeframe for completing the LEP is 12 months from the day the Gateway Determination is issued.

DELEGATION

Council has resolved to not use its delegations in this case. Parts of the Planning Proposal relates to Council owned land. It is recommended that Council not be authorised to use delegations in this case.

CONCLUSION

The Planning Proposal is supported to proceed with conditions, as it is a routine housekeeping amendment with items of minor significance. The twelve (12) items includes proposed amendments and new provisions which are adequately justified to proceed to Gateway determination at this time.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be publicly exhibited for 28 days.
2. Consultation with NSWRFs is required to address inconsistency with section 117 Direction 4.4.
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, council should not be authorised to exercise delegation to make this plan.
5. The Secretary's delegate can be satisfied that the proposal is consistent with relevant s117 Directions or that any inconsistencies are minor or justified.



3.10.17

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3.10.17

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